

case = 11-cv-6760

Fri, Jan 29, 2016 10:36 am

LBHI & JPMCB; January 25, 2016; Settlement Agreement (Bankruptcy docket 51904 and case 11-cv-6760)

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Subject: LBHI & JPMCB; January 25, 2016; Settlement Agreement (Bankruptcy docket 51904 and case 11-cv-6760)

Date:

January 29, 2016

To: Andrew J. Rossman

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2016 FEB -2 AM 9:56

Dear Andrew J. Rossman,

I am a LBHI Capital Trust holder (TRUPS) and Preferred Stock holder in the Lehman bankruptcy. As a creditor and equity holder we need the January 25, 2016 settlement agreement (docket 51904) approved in bankruptcy court. However, I strongly feel that a trustee is an affiliate to a LBHI Capital Trust holder. Which makes them eligible to receive a payment from JPMorgan and LBHI based on the JPMorgan August and September 2008 Security Agreement. For the sake of Judicial Efficiency, it would be nice to have the Bankruptcy Court issue a report and recommendation to the District Court, Judge Sullivan, on this topic. I have a motion to intervention, under rule 24 (docket 95) in case 11-cv-6760. If my request makes sense to the group, perhaps, your group can meet and work on my request. This question is bound to come up again in future Lehman Plan Administrator objections and counterparty responses based on the existing definition for Non-CDA Claims:

"08-13555-jmp Doc 23499 Filed 12/16/11 Entered 12/16/11 15:37:42 Main Document

1. The JPM Funds and the Objectors have a dispute about the meaning of the term "affiliate" in the September Agreements. Under the applicable Claims Hearing Procedures, the Objectors have challenged the "legal sufficiency" of the Claims based on the Objectors' proffered definition of the term.<sup>2</sup> In this regard, the Objectors acknowledge that contract terms are to be given their "plain and ordinary" meanings. (Objection, p. 21.)"

The Debtors and JPMorgan want to treat the LBHI CT (TRUPS) holders as a customer relative to their trustee in the LBHI bankruptcy. Fully aware that a customer has not been able to collect as a secured creditor under the JPMorgan August and September 2008 security agreements:

"Lehman and its creditors argued that the 2008 agreement — which it said was "forced" upon it — allowed JPMorgan to apply the \$8.6 billion in collateral to its affiliates, subsidiaries and successors, but that customers do not qualify as any of those.

"

<http://www.law360.com/articles/305329/jpmorgan-to-return-700m-to-lehman-in-settlement>

The LBHI CT holders are an affiliate to their trustee.

""Non-CDA Claims" means any claims filed by JPMorgan for a customer, as agent, as trustee, in any other representative capacity, or otherwise in respect of which JPMorgan did not assert in the relevant proofs of claim that such claims were secured by the collateral posted by LBHI pursuant to its August and September 2008 Guaranties and Security Agreements in favor of JPMorgan."

These are our options:

- 1) After the LBHI/JPMorgan settlement agreement (docket 51904) is approved in bankruptcy court, Judge Sullivan rule in our favor for Barclays failure to assume the LBHI CTs (TRUPS) when Barclays purchased LBI.
- 2) JPMorgan assert a guarantee claim for the LBHI CT holders in bankruptcy court under their existing definition (Non-CDA Claims). The LBHI Plan Administrator will object and win based on its history. The settlement agreement states that the Plan Administrator can object to excluded actions:

""Excluded Actions" means the LBSF Action, the Tassimo Action, the Other Objections and the Non-CDA Claims."

- 3) A party objects to the existing "Non-CDA Claims" definition and collect a collateral payment from JPMorgan based on a new bankruptcy approved definition.

I strongly feel that the LBHI Lehman Brothers Capital Trust Preferred Securities (TRUPS) holders are an affiliate to JPMorgan more than a customer to JPMorgan:

affiliate

Definitions (2)

1.Commerce: Two parties are affiliates if either party has the power to control the other, or a third party controls or has the power to control the both. Affiliation also exists in (1) in interlocking directorates or ownership

<http://www.businessdictionary.com/definition/affiliate.html>

The LBHI TRUPS Special Purpose Vehicle (SPV) is a subsidiary to LBHI via LBHI's ownership of the LBHI TRUPS common shares. JPMorgan and LBHI are codebtors in the Lehman bankruptcy. JPMorgan, LBHI's TRUPS Guarantee Trustee, is an affiliate to the TRUPS holders via control.

Our LBHI CTs Guarantee Trustee control our interest and our claims and our money. JPMorgan can ignore asserting successor rights or assumption clauses in our underwriters guarantee (Barclays purchase of LBI). JPMorgan can assert or not assert claims in court for the LBHI TRUPS holders.

A customer can just walk away from JPMorgan most of the time.

An affiliate has to always engage in a transaction (sell securities) before walking away from JPMorgan.

LBHI CT holders are JPMorgan's affiliate. JPMorgan does not control its customers.

New definition:

"Non-CDA Claims" means any claims filed by JPMorgan for an affiliate, as agent, as trustee, in any other representative capacity, or otherwise in respect of which JPMorgan did not assert in the relevant proofs of claim that such claims were secured by the collateral posted by LBHI pursuant to its August and September 2008 Guaranties and Security Agreements in favor of JPMorgan.

or

"Non-CDA CT Claims" means any claims filed by JPMorgan for an affiliate, as trustee.

Current definition:

"Non-CDA Claims" means any claims filed by JPMorgan for a customer, as agent, as trustee, in any other representative capacity, or otherwise in respect of which JPMorgan did not assert in the relevant proofs of claim that such claims were secured by the collateral posted by LBHI pursuant to its August and September 2008 Guaranties and Security Agreements in favor of JPMorgan.

cus•tom•er/'k?st?m?r/

noun

a person or organization that buys goods or services from a store or business.

a person or thing of a specified kind that one has to deal with.

I did not pay for any services from JPMorgan! LBHI is paying JPMorgan to be our Guarantee Trustee. No rules of construction are needed to understand this definition.

A JPMorgan affiliate or subsidiary has to deal with JPMorgan the same as a customer. A JPMorgan subsidiary or affiliate is a JPMorgan customer as well.

"Lehman and its creditors argued that the 2008 agreement — which it said was "forced" upon it — allowed JPMorgan to apply the \$8.6 billion in collateral to its affiliates, subsidiaries and successors, but that customers do not qualify as any of those.

"

<http://www.law360.com/articles/305329/jpmorgan-to-return-700m-to-lehman-in-settlement>

"a) recover judgment, in its own name and as trustee of an express trust, against the Guarantor for the whole amount of any Guarantee Payments remaining unpaid "

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Quote:

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2.10. Guarantee Trustee May File Proofs of Claim. Upon the occurrence of a Guarantee Event of Default, the Guarantee Trustee is hereby authorized to (a) recover judgment, in its own name and as trustee of an express trust, against the Guarantor for the whole amount of any Guarantee Payments remaining unpaid and (b) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have its claims and those of the Holders of the Securities allowed in any judicial proceedings relative to the Guarantor, its creditors or its property.

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[http://www.sec.gov/Archives/edgar/data/806085/000104746903008869/a2105775zex-4\\_05.htm](http://www.sec.gov/Archives/edgar/data/806085/000104746903008869/a2105775zex-4_05.htm)

See LBHI TRuPS/subordinate notes Bank of New York Mellon claim numbers below:

Ticker

Claim Number

Cusip Number

Issuer/Trust

LEHKQ

21805

52519Y209

Lehman Brothers Holdings Capital Trust III

LEHLQ

22122

52520B206

Lehman Brothers Holdings Capital Trust IV

LHHMQ

22123

52520E200

Lehman Brothers Holdings Capital Trust V

LEHNQ

67753

52520X208

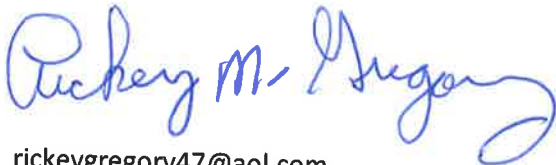
Lehman Brothers Holdings Capital Trust VI

Regards,

By /s/ Rickey M. Gregory

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Rickey M. Gregory



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